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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re T.B. et al., Persons Coming Under the Juvenile Court Law.	
SAN MATEO COUNTY HUMAN SERVICES AGENCY, Plaintiff and Respondent, v. E.B. et al., Defendants and Appellants.	A143392 & A143758 (San Mateo County Super. Ct. Nos. JV83939, JV83940, JV83941, & JV83942)

I.

INTRODUCTION

These consolidated appeals involve appellants E.B. (mother) and T.B.'s (father) four children: M.B. (now age 18), T.B. (now age 17)[1], N.B. (now age 13), and K.B. (now age 10). The juvenile court, following contested jurisdiction and disposition hearings, declared M.B. to be a dependent of the court just hours before her 18th birthday. The court ordered that on her 18th birthday she be declared a nonminor dependent with a transitional living plan. The court declared T.B., N.B., and K.B. to be dependents and ordered family maintenance services.

Appellants allege the court abused its discretion in declaring jurisdiction over M.B. for the sole purpose of retaining jurisdiction over her as a nonminor dependent.

[1] All further references to T.B. are to the minor.

Appellants further contend the court's jurisdictional findings for T.B., N.B., and K.B. were not supported by substantial evidence. They also assert there was no reasonable factual basis for declaring M.B. a nonminor dependent. We disagree and affirm.

II.

FACTUAL AND PROCEDURAL BACKGROUND

A. Initial Referral

The San Mateo County Human Services Agency (the Agency) received the first report about the family in December 2013. The report stated that the children were home-schooled and were physically and emotionally abused by both parents. Mother abused N.B. by hitting her with a ruler and pulled her down the stairs by her hair. While mother was dragging N.B., father kicked her in the back. Both M.B. and T.B. had talked about committing suicide. T.B. threatened to jump off the roof of the house.

When the children were interviewed by the Agency, T.B. admitted that he had said something like "I bet heaven would be an easier life than here" because he was under stress at school, but he did not want to kill himself. N.B. stated mother grabbed her arm and pulled her out of the bathroom for being stubborn, and her father "nudged" her but did not kick her. She said she used to be hit with a "smacker," but there was no current physical discipline.

M.B., however, stated that she saw N.B. get dragged down the stairs by mother. She said her parents had hit them with rulers in the past. She stated that T.B. was feeling depressed and went out on the roof because he wanted to kill himself. She said she also had suicidal thoughts.

Appellants denied any abuse but admitted they had once used a ruler to discipline the children, but had not done it for years. They stated M.B. was upset because they did not approve of her boyfriend. The parents never mentioned the existence of their fourth child, K.B. The parents agreed to seek counseling and the referral was closed.

B. Current Petitions

The current proceedings were initiated after M.B. contacted police in June 2014. The Agency received a report from the Foster City Police Department that M.B. had run

away from home because her parents discovered she had a cell phone. M.B. stated that her mother had thrown a book at N.B., hitting her in the face and causing a black eye. The parents were given a referral for M.B. to go to a shelter for runaway youth, or the option of letting M.B. stay with her paternal grandparents. But the parents would not give permission, and M.B. returned home.

Two months later, in August 2014, M.B. was hospitalized at San Mateo County Psychiatric Emergency Services because she had run away from home and expressed a desire to commit suicide.

When she was interviewed by the Agency, she disclosed both physical and emotional abuse by her parents. M.B. stated that her parents would lecture her for hours. Her parents used a "Christian spanker" designed not to leave bruises. They also disciplined the children by putting soap and hot sauce in their mouths. She said that mother engaged in reckless driving when she was angry and would drive fast, slam on the brakes and swerve in and out of traffic. She stated when mother threw a book at N.B., it was not an accident.

On August 26, 2014, the Agency filed a dependency petition alleging M.B. would likely suffer physical harm as a result of her parents failure to protect her pursuant to section 300, subdivision (b), and she was suffering serious emotional damage as a result of her parents pursuant to subdivision (c).

On September 15, 2014 , the Agency filed a "Jurisdiction/Disposition Report" (the report) recommending the court sustain the dependency petition. The allegations explained M.B. was placed on an involuntary psychiatric hold after she threatened to harm herself. Mother called her "bitch," "slut," and "whore" and told her she wished she had never been born. Mother had hit her in the past. M.B.'s psychiatrist stated M.B. would be at risk of harming herself if she returned home. In addition, M.B.'s doctor also felt M.B. would be a risk if she returned home to what he perceived as an "abusive and dangerous environment."

For T.B., the report alleged he had threatened to kill himself by jumping from a high structure and the parents minimized his mental health needs. There was also ongoing emotional abuse of his siblings.

For N.B., mother had thrown a book at her causing her a black eye and there was ongoing emotional abuse. For K.B., the report cited the ongoing abuse of M.B. as well as the emotional abuse for the other siblings.

The report's assessment/evaluation concluded that although appellants have devoted themselves to parenting their children, their need to have the children parrot their values has created escalating conflict in the home. M.B.'s behavior in reading books, listening to music, and wishing to have friends "are all typical adolescent behavior for which she has been inappropriately punished and shamed, resulting in [M.B.]'s growing depression to the point that she became suicidal." Appellants have forced M.B. to choose between them and the rest of the world. They have also taught the other children to blame all the conflict in the household on M.B.

The report concluded that T.B., N.B., and K.B. had been "thoroughly coached in their responses to the allegations," and also believe their parents' teachings. "The siblings have not been subjected to the emotional abuse that [M.B.] has experienced solely because they have thus far not objected to any of the limitations set by the parents." As they grow older, they will likely question their parents' values and become vulnerable to self-harm and depression. "The parents' ongoing lack of insight into the family dynamic further leads the undersigned to conclude that the younger three children remain at risk of the same mistreatment experienced by [M.B.]"

The report recommended the court sustain the petitions for all four children, declare M.B. a dependent of the court, and place her outside the home. The department did not anticipate that the court would need to remain involved in monitoring the siblings who would remain in the home.

On October 7, 2014, the Agency filed a "First Addendum" to the report. Anne Byczkowski, M.B.'s therapist, reported her to be a "very traumatized teen." M.B.

continued to experience nightmares, extreme anxiety, difficulty sleeping and "flashbacks of mistreatment."

T.B., N.B., and K.B. were participating in weekly therapy and present as "overall happy kids." Appellants also attended weekly therapy and were cooperative and receptive. The assessment was the parents and siblings continue to blame M.B. for the current situation and if M.B. were to return to her parents' custody she "would again be at high-risk of self-harm." The report stated that although T.B., N.B., K.B. maintain they have never been mistreated, there are concerns for their safety and emotional well-being "should they, like their older sister, ever express opposition to the parents' rigid boundaries and beliefs." Appellants love their children but impose strict limitations that do not allow the children to engage in age-appropriate questioning or relationships outside their religious community. The addendum recommended M.B. be declared a dependent of the court and placed outside the home with reunification services even though she was only two days away from turning 18 years old. It further recommended that on her birthday she be declared a nonminor dependent. The recommendation for T.B., N.B., and K.B. remained the same.

C. Contested Jurisdiction and Disposition Hearing for M.B.

The court conducted a contested jurisdiction and disposition hearing concerning M.B. over two days in October 2014, just before her 18th birthday. M.B., both parents, M.B.'s therapist, the social worker, and T.B. testified at the hearing.

Byczkowski testified M.B. was suffering from "considerable trauma" and severe anxiety. M.B. began feeling suicidal at age 13. M.B. was worried about her siblings, especially N.B. She had a close relationship with T.B. and experienced the current situation as a "huge loss." M.B. told Byczkowski she was concerned about T.B.'s anger issues and that he might become suicidal again. T.B. had gone onto the roof and M.B. believed he wanted to kill himself. She said her parents did not take it seriously, but she called the National Suicide Hotline.

She described her parents berating her in long lectures that would last for hours for behavior they disliked. She used her cell phone to call her friend Michael and her parents

did not like it because she told him things about her family. She said her parents did not want her to read books, see movies, use the Internet, or socialize with other people because it would influence her. Her parents only wanted her to be friends with the "super religious" children at her church.

In the summer of 2014, M.B. researched whether she could overdose on Prozac and thought she could use Tylenol to commit suicide. Her parents took her to a doctor for depression, but would not let her talk to him alone.

She ran away and talked to the police at her grandmother's house. The police then took her to the hospital. She reported that her mother called her a bitch, slut, and whore and said she wished she was never born. Mother called N.B. stupid and an idiot and said she was worthless. Mother slapped her, N.B., and T.B. She saw her mother scratch N.B. multiple times. Mother also pulled N.B. down the stairs more than once. Her father kicked N.B. but claimed it was only a "tap." M.B. testified that mother had thrown a book at N.B. and given her a black eye. The next day, father took N.B. with him on a trip to Los Angeles to hide the injury. She testified that mother would spank them until "she hurt us, either physically or emotionally." The parents would throw water on the children if they were disrespectful.

Mother screamed and yelled for long periods of time. When mother was angry, she would drive recklessly and on one occasion she slammed on the brakes on the freeway. M.B. believed she drove recklessly to scare them. On another occasion when mother threatened suicide in front of the children, K.B. was very upset.

M.B. told her parents that she was planning to live with Michael when she turned 18. They said she would be his "whore." Her father did say that he thought it would make her happy on one occasion. She stated that her parents "never even knew me. They never even knew or cared if I was suicidal or if I was really there or if I was doing well." She said both her brother and father threatened to harm Michael.

M.B. testified that she was worried about her siblings because they were "getting hurt" and they "won't talk." She said the parents had slapped T.B. across the face and they have yelled at him and berated him. M.B. testified that N.B. was mother's greatest

target and mother took out her anger on N.B. M.B. testified that N.B. also told her she did not want to live any more in June 2014.

She said after the Agency got involved, her parents told the kids that they could not tell what goes on in their house because otherwise people will take them away.

T.B. testified that his parents never called M.B. names and there were no multi-hour lectures. He stated that he had seen his parents slap his siblings once or twice over 12 years. He said that he was never suicidal. One day when he was stressed about school he called his parents and said something like, "I bet heaven is easier than this place." He went out on the roof to hide. T.B. testified that what M.B. said about him were lies.

Mother testified she spanked the children but she never slapped or scratched them. She would physically move N.B. to punish her and give her time in the corner. She admitted using a spanker to punish the children when they were younger. She testified that she never called M.B. or N.B. names, other than calling M.B. a "bitch" once or twice. Mother admitted spraying N.B. with the hose to get her out of the tree, but she said she did it "to make it fun."

Mother testified she was "devastate[ed]" when she learned M.B. wanted to move out when she turned 18 years old. "And my daughter is leaving—I don't know if I'll ever remember my life to be the same." She did not feel she had time to "mentally prepare" for M.B. to leave home. On cross-examination, she admitted that she said if M.B. moved in with her friend, she would be like a whore. She said she had been accused of having anger management issues even though she did not believe it was true, but she was willing to improve.

Father testified he would pour water on the children, primarily N.B., to motivate her or get her to move. Father gave contradictory testimony about whether T.B. was suicidal on the day he was on the roof. He stated that even though T.B. stated he wanted to take his own life, he did not believe T.B. was suicidal. M.B. misperceived the situation. Father admitted he said that if M.B. moved in with her friend Michael, "if someone was crazy, they might get so angry they would burn a person's house down . . . ."

After hearing argument from counsel, the court stated: "I absolutely found [M.B.] to be credible. That was very difficult testimony, even after all the years that I have sat in dependency court, to listen to." The court expressed its view that what they heard in court was just the tip of the iceberg, and "not the entire iceberg."

The court stated T.B.'s testimony appeared to be an attempt to present a carefully crafted picture and it was not "spontaneous." Mother was very emotional about how M.B.'s decision to leave home affected her. " 'She is leaving me.' It was all about her." The court found: "What I did not see, what I wanted to see, and what I expected to see, and I am very sad that I did not see, was any parental concern basically about your daughter being hospitalized, wanting to die, and saying that you contributed to that need for her to end her life. I didn't hear a lot of concern about that."

The court found the social worker to be "100 percent credible" and the therapist's testimony to be "incredibly effective, very compelling."

The court found M.B. was a child described by section 300, subdivisions (b) and (c). The court declared M.B. a dependent of the court and proceeded to disposition. The court found "clear and convincing evidence that requires removal for her own protection and that there is still substantial risk." The court recognized the removal was happening a little more than hour before M.B.'s birthday but stated "she deserves to know that this court believes her. That somebody believes her. That she is not crazy . . . . She deserves to know that I believe her. And that vindication is something that she can take in her passage to adulthood. She can put that in her pocket and feel good about herself."

The court ordered reunification services to be terminated on M.B.'s 18th birthday, and she be declared a nonminor dependent. The court scheduled a nonminor dependent review hearing for April 2015. The court referenced M.B.'s transitional independent living plan, and that it required M.B. to attend college, community college or vocational education.

D. Jurisdiction and Disposition Hearing for T.B., N.B., and K.B.

The court considered all of the evidence from M.B.'s hearing and the parties presented no new evidence. The court stated based upon the prior testimony and all the

reports, it would sustain the counts as to the three remaining children. The court found: "This case is about control, and control is not love. There is a thin line between good child rearing and control. In my view, you crossed it a long time ago with great damage to [M.B.], and we are not going to allow that to happen to the other three."

The court sustained the section 300, subdivisions (b) and (j) allegations as to T.B., N.B., and K.B. and proceeded to disposition. The court ordered mother and father to retain custody of the three children. The court ordered both parents to participate in counseling as well as the children, and mediation with the paternal grandparents, and between the children and M.B. The court ordered the children to participate in activities with other children who are not home-schooled or part of the church community.

III.

DISCUSSION

A. Dispositional Order for M.B.

Appellants argue the juvenile court abused its discretion because it declared M.B. a dependent for the sole purpose of retaining jurisdiction over her as a nonminor dependent so she could obtain benefits later under the California Fostering Connections to Success Act (CFCS Act) (Assem. Bill No. 12 (2009-2010 Reg. Sess.); Assem. Bill No. 212 (2011-2012 Reg. Sess.)). They do not challenge the evidence supporting the juvenile court's findings under section 300, but argue the court erred in declaring her a nonminor dependent just hours before her 18th birthday. Appellants contend even if there was substantial evidence to support the juvenile court's dispositional order, the court abused its discretion due to the circumstances under which the finding was made.

Appellant's argument fails for several reasons. There is no evidence that the court made its findings with regard to M.B. for an improper purpose, but instead there was ample evidence to support the court's orders. Also, appellants' contention that the court improperly declared M.B. a dependent just hours before her 18th birthday and without good cause has been forfeited. Finally, even if not forfeited appellants' arguments are meritless.

1. The Juvenile Court Did Not Abuse Its Discretion in Declaring M.B. a Dependent Just Before She Turned 18 Years Old

We review the juvenile court's jurisdictional findings under the substantial evidence standard. (*In re David M.* (2005) 134 Cal.App.4th 822, 828.) We review the juvenile court's dispositional order for an abuse of discretion. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.) "Under this standard of review we examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and defer to the lower court on issues of credibility of the evidence and witnesses. [Citation.] We must resolve all conflicts in support of the determination and indulge all legitimate inferences to uphold the court's order. Additionally, we may not substitute our deductions for those of the trier of fact. [Citations.]" (*In re Albert T.* (2006) 144 Cal.App.4th 207, 216.)

Jurisdiction is appropriate under section 300, subdivision (b) where there is substantial evidence that "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child . . . ." Three elements must exist for a jurisdictional finding under section 300, subdivision (b): " '(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) 'serious physical harm or illness to the minor, or a 'substantial risk' of such harm or illness.' [Citation.]' " (*In re J.O.* (2009) 178 Cal.App.4th 139, 152.)

Pursuant to section 300, subdivision (c), a child comes under the jurisdiction of the juvenile court if "[t]he child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care." The jurisdictional finding can be based upon either parental action or inaction causing the emotional harm or where the child is suffering serious emotional damage and the parents are unable to provide adequate mental health treatment. (*In re Roxanne B.* (2015) 234 Cal.App.4th 916, 921.)

Appellants do not dispute that M.B. was suffering from serious emotional damage. M.B. had been placed on a psychiatric hold after she threatened to kill herself. Her therapist described her as a "very traumatized teen" who continued to experience extreme anxiety, nightmares, and "flashbacks of mistreatment" up to the time of the hearing. Mother had been verbally abusive calling her a slut, whore, and bitch and father had threatened to harm her only friend, Michael.

There was also substantial evidence that mother had been physically abusive, slapping M.B. and scratching and spanking the other children. M.B. was at substantial risk of suffering serious physical harm due to her parents' neglect of her suicidal thoughts and actions. Both M.B. and T.B. had talked about or attempted suicide, and the parents did not take these actions seriously.

The court found the testimony of M.B., the social worker, and the therapist to be credible, but found that T.B. appeared to be coached and his testimony was not spontaneous. It found the parents did not display sufficient concern for M.B.'s well-being and mental health. The court found "clear and convincing evidence that requires removal for her own protection and that there is still substantial risk."

Despite the substantial evidence in the record supporting the court's order, appellants argue that the court declared M.B. a dependent for an improper purpose. Appellants contend that the court retained jurisdiction solely to assist in financing M.B.'s college education, and not because she lacked a safe, stable home or was at risk of neglect or abuse. Nothing in the record supports this conclusion, and there was substantial evidence supporting the removal of M.B. from her parents.

During the hearing when father's counsel asked the social worker why she felt it necessary to have M.B. removed from her home just a few hours before she turned 18, she stated that M.B. was terrified to return to her parents' home, so "it doesn't matter if it's three hours from now or it's three days from now. [M.B.] is not ready to go home." The court clearly stated its reason for proceeding with the removal a little more than hour before M.B.'s birthday: "[S]he deserves to know that this court believes her. That somebody believes her. That she is not crazy. . . . She deserves to know that I believe

her. And that vindication is something that she can take in her passage to adulthood. She can put that in her pocket and feel good about herself."

Thus, there was no mention in the court's dependency findings, express or implied, that the motivation for the findings was a desire for M.B. to be able to access educational benefits as a nonminor dependent. In fact, the evidence at the hearing was to the contrary. M.B. testified that her grandmother told her she would pay for her college education whether she lived with her or not. Father also testified that he would pay for M.B.'s educational needs.

As outlined above, the record presents substantial evidence that M.B. lacked a safe, stable home and was suffering from abuse and neglect. The court's dependency declaration properly was based on the need to remove M.B. for her own protection.

Lastly, appellants contend that the "manner in which the jurisdictional and dispositional hearing was conducted illustrates [the court's] abuse of [its] discretion." The hearing was conducted over two days and concluded after 10:00 p.m., just hours before M.B.'s 18th birthday. Appellants never objected before the juvenile court to the lengthy hearing, and the court made it clear on the record of its intention to conclude the hearing before M.B.'s birthday. (*In re S.B.* (2004) 32 Cal.4th 1287, 1293 [dependency matters are not exempt from the rule that "a reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court"].)

At the lunch break on the second day of the hearing, county counsel stated: "We will want to go until we are finished today. [M.B.] does turn 18, so we would want to complete jurisdiction and disposition." The court responded: "We will stay until midnight if we have to. We will get a back-up court reporter if we have to." After the lunch break the court stressed the need to complete the evidentiary portion of the hearing before midnight. At 6:00 p.m., counsel asked if there would be a dinner break and the court stated that it would give "regular small breaks" and added: "If you're hungry, speed it up. (Laughter.)"

At the conclusion of the testimony, the court heard argument from all counsel. County counsel stated that he anticipated the parents' counsel would argue that M.B. should not be declared a dependent because she was almost 18. The court said that was a "specious argument." Father's counsel argued that M.B. should not be removed from her parents because it would be an "ineffective disposition" and "makes no difference whatsoever since it is 10:15 p.m." Mother's counsel argued that M.B. was "not suffering harm at this time. Again, because she is almost 18 years old." In response, the court stated: "There needs to be some kind of closure for her. She has done everything to attain it. She's done her job and she needs to feel good about herself at midnight when she turns 18. That is another extra reason for declaring dependency. She gets that. She deserves that."

Appellants have cited no authority and we could find none that holds it is an abuse of discretion for a juvenile court to declare dependency immediately before a child turns 18 years old. Given the circumstances of this case, where there was substantial evidence of emotional abuse and potential harm for M.B., the court was within its discretion to declare her a dependent just prior to her 18th birthday. "The juvenile court has broad discretion to determine what would best serve and protect the child's interests and to fashion a dispositional order accordingly. On appeal, this determination cannot be reversed absent a clear abuse of discretion. [Citation.]" (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 474.)

2. Appellants Cannot Challenge M.B.'s Nonminor Dependent Status; and in Any Event She was Properly Declared a Nonminor Dependent Entitled to Continued Benefits

Much of appellants' argument is about whether M.B. properly qualifies for nonminor dependent status. This issue was not raised in the juvenile court and is not properly before this court. Appellants' notices of appeal are from the court's jurisdiction and disposition hearing for M.B. What happened after those hearing dates relating to M.B.'s nonminor dependent status was not at issue at the hearing and cannot properly be raised by mother and father.

A claim of error is forfeited on appeal if it is not raised in the trial court. (*In re S.B.*, *supra*, 32 Cal.4th at p. 1293.) "The purpose of this rule is to encourage parties to bring errors to the attention of the trial court, so that they may be corrected. [Citation.]" (*Ibid.*)

Even if properly raised, appellants' claim fails on the merits. We conclude the juvenile court could properly declare M.B. a nonminor dependent.

"Many children who become dependents of our juvenile courts remain so when they are, at least chronologically, no longer children. The juvenile court has discretion to retain jurisdiction over a dependent until he or she attains the age of 21 years (Welf. & Inst. Code, § 303, subd. (a)) . . . ." (*In re Shannon M.* (2013) 221 Cal.App.4th 282, 284-285, fn. omitted (*Shannon M.*).)

Appellants cite to *In re Robert L.* (1998) 68 Cal.App.4th 789 to argue that a juvenile court abuses its discretion if it continues dependency jurisdiction for a nonminor dependent simply to subsidize the dependent's college education. A juvenile court cannot extend jurisdiction beyond a dependent's 18th birthday with the "sole basis" for the extension being the desire to provide the dependent special assistance to complete their college education. (*Id.* at p. 797.) The court stressed there was no legislative mandate that the dependency system be used to subsidize higher education. (*Ibid.*)

However, "[s]ince January 2012, [Welfare and Institutions Code] section 391 requires the juvenile court to continue dependency jurisdiction over nonminor dependents unless either (1) the nonminor does not wish to remain subject to dependency jurisdiction or (2) the nonminor is 'not participating in a reasonable and appropriate transitional independent living case plan.' [Citation.]" (*In re Aaron S.* (2015) 235 Cal.App.4th 507, 516.) The CFCS Act allows nonminor dependents to take advantage of federal funds for extended foster care benefits. (*Shannon M.*, *supra*, 221 Cal.App.4th at p. 285.) Contrary to appellant's contentions, "[w]hile the primary legislative focus of the CFCS Act was clearly on making continued services and benefits available to juvenile court dependents in foster care who would otherwise 'age out' of the system, we find nothing in the statutory scheme that withdraws the court's preexisting power to extend dependency

jurisdiction for nonminor dependents generally." (*Id.* at p. 301.) "At the discretion of the juvenile court, a dependent minor who has a permanent plan of long-term foster care may continue to receive services as a nonminor dependent (as defined by section 11400, subd. (v)) when he or she turns 18 if the nonminor dependent has a transitional independent living case plan." (*In re Aaron S.*, *supra*, 235 Cal.App.4th at p. 515, fn. omitted.)

Appellants' argument that M.B. does not qualify for nonminor dependent status is meritless. To be a nonminor dependent, M.B. must be between age 18 and 21, participating in a transitional independent living plan, and be under foster care placement. (*In re K.L.* (2012) 210 Cal.App.4th 632, 637.) M.B. meets all three criteria. At the jurisdiction and disposition hearing, the court ordered M.B. to participate in a transitional independent living case plan, and appellants have presented no evidence she is not doing so. Respondents filed a "Nonminor Dependent Review Report" dated April 15, 2015, that documented M.B.'s continued physical and emotional issues, including that M.B. had been hospitalized and was awaiting placement by the Agency.[2] M.B. was in foster care placement with her paternal grandparents but they were not supporting her mental health needs, so the Agency was recommending extended foster care services for her. M.B. had a transitional independent living plan in place. Therefore, the juvenile court did not err in declaring her a nonminor dependent.[3]

B. Jurisdictional Findings for T.B., N.B., and K.B.

In determining if there is substantial evidence to support the juvenile court's disposition, " 'we draw all reasonable inferences from the evidence to support the

[2] On April 10, 2015, respondent filed a request to augment record with the "Nonminor Dependent Review Report" prepared for M.B.'s nonminor dependent review hearing in April 2015. Appellants filed an opposition on April 17, 2015, but later withdrew their opposition on June 8, 2015. On April 21, 2015, we issued an order stating the motion would be considered with the merits of the appeal. We grant respondent's motion to augment finding the report relevant to the issues before us on appeal.

[3] Whether or not M.B. can or should qualify for financial support under the CFCS Act is beyond the scope of our review.

findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court.'. . ." (*In re I.J.* (2013) 56 Cal.4th 766, 773, quoting *In re Heather A.* (1996) 52 Cal.App.4th 183, 193.)

As outlined above, jurisdiction is appropriate under section 300, subdivision (b) where there is evidence of a substantial risk that a child is suffering or will suffer physical harm. (*In re J.O.*, *supra*, 178 Cal.App.4th at p. 152.) Section 300, subdivision (j) applies when a "child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child." (§ 300, subd. (j).) "By citing these factors, subdivision (j) implies that the more egregious the abuse, the more appropriate for the juvenile court to assume jurisdiction over the siblings. [Citation.]" (*In re I.J.*, *supra*, 56 Cal.4th at p. 778.)

Appellants do not contest the court's findings that M.B. was the victim of abuse or neglect as outlined in section 300, subdivisions (b) and (c), which satisfies the first prong of subdivision (j). As outlined above, there was substantial evidence that mother and father emotionally abused M.B. and she was at risk of physical harm. (See *In re Francisco D.* (2014) 230 Cal.App.4th 73, 81 ["Substantial evidence shows that Mother systematically, verbally, physically, and emotionally abused [the sibling], who was already suffering from depression."].)

The abuse suffered by M.B. as well as the testimony about the parents' behavior to the other children satisfied the second prong that T.B., N.B., and K.B. were likely to continue to suffer verbal and physical abuse. Additionally, with M.B. out of the home and the siblings getting older, they were likely to suffer emotional abuse similar to M.B. The report concluded that the three younger siblings have not been subjected to the same level of emotional abuse as M.B. "because they have thus far not objected to any of the

limitations set by the parents." As the children get older and begin "to question the values with which they were raised, they will likewise be emotionally exiled, and therefore also vulnerable to self-harm and depression." (See *In re Francisco D.*, *supra*, 230 Cal.App.4th at pp. 81-82 [with the older sibling gone, "a finder of fact could reasonably determine that [the younger sibling] has a high likelihood of suffering from Mother's cruelty and of suffering from Mother's emotional, verbal, and physical abuse."].)

There was also substantial evidence to support the court's findings under section 300, subdivision (b). For N.B., there was direct evidence of ongoing physical abuse. Mother threw a book at N.B., hitting her in the face and causing her a black eye. She was sprayed with a hose by mother to get her to come down from a tree and father poured water on the children, primarily N.B., as a form of discipline. M.B. testified that mother pulled N.B. down the stairs by her hair and father kicked her. Mother had also slapped and scratched N.B. M.B. testified that N.B. told her that she did not want to live anymore. Mother also called N.B. "stupid" and "worthless." M.B. testified that N.B. was mother's greatest target and mother took out her anger on N.B.

T.B. stated a desire to kill himself and went onto the roof of the house. Father testified that T.B. left a message that stated "heaven would be better than being here." But father did not believe T.B. was suicidal. T.B. testified that he made the statement and went onto the roof, but he was not suicidal. M.B. testified the parents had slapped T.B. across the face and they have yelled at him and berated him.

There was limited testimony about the youngest child, K.B. M.B. testified that mother threatened suicide in front of the children and K.B. was very upset. K.B. was, however, witness to all of the abuse suffered by her siblings. Further, the parents admitted using a "spanker" on all the children.

M.B. testified she was worried about her siblings because they were "getting hurt" and they "won't talk." The court stated that in watching M.B.'s testimony it saw "the most devastating pain that the child evinced was when she discussed her fear for her siblings based on what had happened to them. So it doesn't have to happen to the target

child, it can happen to a sibling or to somebody else in the home and cause that child incredible distress."

The report found: "The parents' ongoing lack of insight into the family dynamic further leads the undersigned to conclude that the younger three children remain at risk of the same mistreatment experienced by [M.B.]" The court found M.B., the social worker, and the therapist to be credible witnesses. It found T.B.'s testimony was not "spontaneous" and it appeared to be carefully crafted. " '[T]he trial court is to consider the totality of the circumstances of the child and his or her sibling in determining whether the child is at substantial risk of harm, within the meaning of *any* of the subdivisions enumerated in subdivision (j). The provision thus accords the trial court greater latitude to exercise jurisdiction as to a child whose sibling has been found to have been abused than the court would have in the absence of that circumstance.' " (*In re I.J.*, *supra*, 56 Cal.4th at p. 774.)

Appellants contend that the juvenile court sustained the petitions as to T.B., N.B., and K.B. "due to the parents' lack of insight into dynamics of their parenting style." They assert that the court took jurisdiction based on past conduct and a perceived risk of future emotional harm and this was erroneous.

Appellants cite to *In re Rocco M.*: "While evidence of past conduct may be probative of current conditions, the question under section 300 is whether circumstances *at the time of the hearing* subject the [child] to the defined risk of harm." (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.) Previous acts of neglect, standing alone, do not establish a substantial risk of harm and there must be some reason beyond mere speculation to believe the acts will reoccur. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1394.)

Appellants argue that the Agency recognized mother and father were devoted parents but they were rigid in their parenting techniques and used some inappropriate discipline techniques. They assert there was no evidence at the time of the hearing that any past conduct was likely to reoccur.

While appellants are correct that mother and father have expressed a willingness to improve and are taking parenting courses and attending therapy, there is also evidence

they still do not recognize any problems within the home. Mother testified that she could not identify any changes she would make in her parenting. Mother also stated she does not believe she has an anger problem. Both parents refused to recognize M.B. and T.B.'s suicidal behavior. The court found that when the parents were asked repeatedly what they would do differently "all I heard was, to sum it up 'We don't have any problems here.' "

There was substantial evidence of ongoing abuse and neglect for T.B. and N.B., and evidence that K.B. was at substantial risk of serious harm. " 'The court need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child.' [Citation.]" (*In re I.J.*, *supra*, 56 Cal.4th at p. 773.) " 'The purpose of dependency proceedings is to prevent risk, not ignore it.' [Citation.]" (*Jonathan L. v. Superior Court* (2008) 165 Cal.App.4th 1074, 1104.)

IV.

DISPOSITION

The juvenile court's jurisdiction and disposition orders are affirmed.

_____
RUVOLO, P. J.

We concur:

_____
REARDON, J.

_____
STREETER, J.